

Remarks

Objections to Claim 3

The Examiner objected to Claim 3 because of the following informalities: on line 1, Claim 3 is recited as depending from cancelled Claim 2; on line 2, the claim limitation “said substrate” lacks antecedent basis as a substrate is not recited in base Claim 1. Applicant thanks the Examiner for noting these errors. Applicant has amended Claim 3 to correct these errors and respectfully requests reconsideration and withdrawal of the objections to Claim 3.

The § 102 (b) Rejections Claims 1, 3, 4, 8-10, 12, 16-18, and 21

The Examiner rejected Claims 1, 3, 4, 8-10, 12, 16-18, and 21 under 35 U.S.C. § 102 (b) as anticipated by U.S. Patent No. 3,961,585 to Brewer (“Brewer” or “the Brewer patent”). Applicant respectfully traverses these rejections and requests reconsideration.

“A claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described in a single prior art reference.” *Vandergaal Bros. v. Union Oil of California*, 814 F.2d 628, 631; 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). MPEP § 2131. (Emphasis added.) Applicant respectfully submits that the Brewer reference fails to disclose each element of independent Claims 1 and 21 as set forth in those claims.. Specifically, Brewer fails to disclose an anchoring strap with a second free end attached to a fastener means. Applicant courteously points to Figures 1, 2, and 3 of the instant application which all depict anchoring straps 18 and 20 of the claimed device for securing cargo as possessing a first end attached to a hub means 24 and at least one of the anchoring straps possessing a second free end attached directly to a fastening means 28 as claimed in Claim 1.

In contrast, Applicant courteously notes that in the Brewer patent, the respective straps 78A and 78B, which the Examiner designates as analogous to the claimed anchoring straps, are not attached to fastening means but are in fact attached to a second ring. As seen in Figures 1 and 2, the second ends of anchoring straps 78A and 78B are attached to hub means 66A and 68B, respectively while the first ends of straps 78A and 78B are attached to hub means 28A and 28B,

respectively. Consequently, neither end of anchoring straps 78A nor 78B are attached to fastening means as claimed in Claims 1 and 21, but are actually attached to more than one hub means. In addition, Brewer specifically differentiates between hub means 66A and 68B and fastening means 74A and 74B. In col. 3, lines 33-36, Brewer states "A second set of connecting members in the form of deformed rings **62A-72A** are provided and a securing device in the form of hooks **74A** are connected to each one of rings **62A-72A**."

Therefore, it can be seen that the Brewer patent fails to anticipate Claims 1 and 21 of the instant application in that it fails to disclose each of the respective claim elements as set forth in those claims. The figures in the Brewer patent show the second free end of the anchoring straps attached to a second ring, not a fastening means. In addition, this is further depicted in the Brewer specification which distinguishes the fastening means of Brewer from the rings (hub means) to which they are attached. For this reason, Applicant respectfully requests reconsideration and passage to allowance of Claims 1 and 21.

Claims 3, 4, 8-10, 12, and 16-18 depend directly or indirectly from Claim 1 and thus incorporate all the limitations of that claim. Because, as discussed above, the Brewer patent fails to anticipate all the elements of Claim 1, it also fails to anticipate Claims 3, 4, 8-10, 12, and 16-18. Applicant respectfully requests the removal of the rejections of Claims 3, 4, 8-10, 12, and 16-18 and passage to allowance of those claims.

The § 103 (a) Rejections of Claims 5-6, and 13

The Examiner rejected Claims 5 and 6 under 35 U.S.C. § 103 (a) as obvious over the Brewer patent in view of U.S. Patent No. 6,152,664 to Dew, et al. ("Dew" or "the Dew patent"). Claim 5 depends directly from Claim 1 and claims the embodiment in which the fastening means is an S-hook. Claim 6 depends from Claim 5 and claims as S-hook having both a closed eyelet and an open eyelet. As dependent claims, both Claims 5 and 6 incorporate all the limitations of Claim 1. Applicant respectfully traverses these rejections and requests reconsideration.

To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicant respectfully submits that the combined Brewer and Dew patents fail to disclose all the limitations of Claims 5 and 6. As noted above, Brewer discloses an anchor strap attached to two hub means rather than onto a hub means and a fastening means. Dew discloses an anchor strap attached to a S-hook but fails to disclose any attachment at all to a ring or hub means.

In addition, the Brewer patent teaches away from the Brewer – Dew combination. Applicant courteously notes that Brewer describes the connection of the bottom row of rings 62A-72A as a way of distributing vertical forces applied to a single ring in the first set of rings to two rings in the second (lower) set of rings. [See Brewer col. 3, lines 56-68, “This (the Brewer strap arrangement), in effect, reduces the total force applied to any one of the hooks 74 (which connect the net to the pallet) as compared to a construction wherein a single strap connected the upper ring to one lower ring.”] Thus, a person skilled in the art with knowledge of the Brewer patent would be instructed (taught away) by the Brewer patent not to combine with the Dew patent because the attachment of any fastening means, including an S-hook, as taught in the Dew patent possesses no force distribution rings of any kind nor any other device that helps to alleviate vertical forces on the fastening means. The anchoring strap structure in the Dew patent possesses direct connection only to a buckle with no force distribution rings to reduce the vertical forces on the disclosed S-hook. Applicant respectfully submits that because Dew lacks any force distribution rings of the Brewer patent, the Brewer patent teaches away from its combination with the Dew patent to establish a *prima facie* case of obviousness against Claims 5 and 6. Applicant respectfully requests reconsideration and passage to allowance of Claims 5 and 6.

The Examiner rejected Claim 13 under 35 U.S.C. § 103 (a) as obvious over Brewer in view of U.S. Patent No. 5,584,622 to Dickerson ("Dickerson" or "the Dickerson patent"). Claim 13 depends from Claim 1 and thus incorporates all the elements of that claim. Applicant respectfully traverses this rejection requests reconsideration.

First, Applicant respectfully submits that the combined Brewer and Dickerson patents fail to disclose each element of Claim 13 as they fail to disclose a first and second hub means that enable rotatable sliding of the anchoring straps. First, Brewer fails to disclose anchoring straps as claimed by Applicant in that the anchoring straps in Brewer do not attach to any fastening means. Second, Dickerson fails to teach any sort of hub means that is connected to the anchoring means. Thus, the combined Brewer and Dickerson patents fail to disclose a direct connection between an anchor strap with a fastening means and a hub means.

In addition, similar to the teaching away from the combination with Dow, the Brewer patent teaches away from the combination with the Dickerson patent. Applicant notes that, like a Dew, the Dickerson patent lacks any component to allow force distribution that reduces the forces applied to the anchoring strap that leads from the car tire to the anchor strap in Dew. Therefore, like the Dickerson patent, the Brewer patent teaches away from combination with the Dickerson patent as is teaches away from a direct connection between the fastening means and the anchoring strap and thus teaches away from a strap with a fastening means having a ratchet device for tension adjustment. Applicant respectfully points out that Brewer has no strap attached to a fastening means that is fastened to a substrate such as a pallet.

For these reasons, Applicant respectfully submits that the combination of the Brewer and Dickerson patent fails to establish a *prima facie* case of obviousness against Claim 13 as it fails to both disclose each element of Claim 13 and because the Brewer patent teaches away from it combination with the Dickerson patent. Applicant respectfully requests reconsideration and passage to allowance of Claim 13.

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Conclusion

Applicant respectfully submits that the present application is now in condition for allowance, which action is courteously requested. The Examiner is invited and encouraged to contact the undersigned attorney of record if such contact will facilitate an efficient examination and allowance of the application.

Respectfully yours,



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